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Vic Jackson  
Interconnection Consultant

July 26, 2000

RECEIVED

JUL 26 2000

via Hand Delivery

Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
Room TW-A 325  
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Response to USAC letter regarding  
Appeal of the Denial of Funding to Laurel Hall School  
Application Number: 0000148415  
CC Docket No. 96-45

Dear Sir or Madam:

We represent the interests of the Laurel Hall School (Laurel Hall). On behalf of Laurel Hall, we hereby file this letter responding to the Universal Service Administrative Company's (USAC) letter to the Commission dated July 10, 2000. In response to that letter, we state the following:

The Laurel Hall School is a small school in Hagerstown, Maryland dedicated to educating students with disabilities. The school is wholly funded by federal, state and local special education funding administered by the Washington County Board of Education. The majority of Laurel Hall's students are from low-income homes. The need for the funding requested is essential to enable Laurel Hall School to expose its students to the technology that will be an integral part of its students lives in the years to come. Denial of the funding requested will have an adverse impact on the educational needs of the disabled children attending Laurel Hall.

The USAC's letter should be stricken from the record as untimely filed. Laurel Hall timely filed its appeal of the Commission's decision in late November, 1999. Over eight months later, on July 10, 2000, The USAC filed the letter to which this filing responds. The

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Commission's rules clearly provide that "Parties shall adhere to the time periods for filing oppositions and replies set forth in 47 C.F.R. § 1.45." 47 C.F.R. § 54.720(e). Section 1.45 clearly states that oppositions to any pleading, motion or request must be filed within 10 days after the pleading being opposed was filed. The ten day period for a response in the instant matter expired in early December, 1999. Thus, the Commission has before it a pleading that was filed approximately 8 months late. The Commission thus should strike The USAC's untimely filed July 10, 2000 pleading. That The USAC ignored the Commission's rules in order to file its pleading comes as no surprise; as is described below, in regards to the Laurel Hall application The USAC seems to have followed no rules in denying the application.

In The USAC's untimely filed letter, it states that "Laurel Hall's application . . . requested a total of more than \$180,000 for a school with 60 students." Nowhere in the Commission's rules regarding the E-Rate program is there any limit to the dollar amount that may be requested per student. It is, therefore, troubling that The USAC focuses on this point as a reason for inquiring into the sufficiency of Laurel Hall's secured resources. Even more troubling however, is the fact that the Schools and Libraries Division (SLD) was provided with information indicating that sufficient resources were in fact secured. At least five pages of financial resource information (Exhibit One) was provided to the SLD. Even here on appeal, The USAC is unable to make more than the most vague assertions regarding the alleged insufficiency of the application. No mention is made of what rule or regulation the application violates because the application is in compliance with all applicable rules and regulations.

The USAC's untimely filed letter questions the technology plan submitted by an authorized technology plan certification organization. Laurel Hall's technology plan was approved by the Southern Association of Independent Schools (SAIS) (Exhibit Two). SAIS was certified by the Schools and Libraries Corporation to approve technology plans on January 27, 1998 (Exhibit Three). Despite the certification of the technology plan by an authorized certification entity, The USAC attacked the plan and the school's ability to implement it. This attack, however, cites no rule or regulation that has been violated. Such a statement is absent because no such rule can be cited and such a statement cannot accurately be made.

The presence within Laurel Hall's application of more network drops than equipment to presently utilize them is also challenged by The USAC. The explanation, while painfully intuitive, is as follows. The school desires to install an excess number of drops to avoid inconveniencing its students multiple times. Rather than engaging in renovation and construction every year the school might secure a technology grant, the school wishes to minimize the disruption of the education of its students by planning ahead and anticipating its desired level of technology build-out. Apparently The USAC believes that planning ahead to minimize the disruption of learning disabled students is an unacceptable goal. We patently disagree, and invite The USAC to point to a rule prohibiting such reasonably prospective planning. We suspect they will be unable to respond because there is no such rule.

Laurel Hall also wishes to bring to the Commission's attention the fact that the Laurel Hall School is a division of the Brooklane Health Center. As such, they are able to call on the greater resources of that parent organization to implement its plans. If any budgets or

financial statements obtained directly from Brooklane Health Center assist the Commission in reaching a decision, we are happy to supply such information.

Surely the Commission cannot acquiesce while The USAC creates its own rules regarding acceptable levels of funding and sufficiency of resources. To allow The USAC to make decisions on these matters without greater guidance from the Commission would be tantamount to an impermissible delegation of authority. Perhaps The USAC is uncomfortable with the funding level requested for reasons other than those described in their letter, but nothing in the letter points to any rule or regulation which Laurel Hall's application violated.

As a basic tenet of law, Laurel Hall is entitled to an explanation from the The USAC which demonstrates reasoned decision making in accord with law. Ignoring for a moment the untimely and dilatory nature of the The USAC's comment, it is obvious that the The USAC has engaged in unsupported actions which are without basis in law or fact. Rather, the Commission is asked to verify the The USAC's actions which have failed to cite a rule, regulation, policy statement, delegation of authority, case law, or any other recognizable basis for denial of Laurel Hall's application. Such arbitrary action simply cannot be supported by the Commission if the agency itself is to be faithful to its statutory mandate. We are confident that the Commission will take the appropriate action in striking The USAC's late filed opposition from the record, and agree that for applications to be denied, rules must be violated.

Very truly yours,

A handwritten signature in black ink, appearing to read "Benjamin J. Aron", with a long horizontal flourish extending to the right.

Benjamin J. Aron

BJA:cfh

## **EXHIBIT I**

AUG-19-99 THU 15:52

P.02

Laurel Hall School  
Computer Project Budget  
For Fiscal Year  
7/1/99 - 6/30/00

Page 1

	Units	Cost Per Unit	Total Cost	Comments
Computers & Monitors	14	\$1,750	24,500	Pentium 400MHz or Above
Printers	14	\$400	\$5,600	Color Inkjets
Computer Work Stations	20	\$300	\$8,000	
E-Rate Supplement Payment	12Months	\$385	\$4,820	Monthly payments on balance
Implementation Costs			\$7,825	
Communication Costs	12Months	\$1,407	\$16,875	Internet access w/ E-Rate Discnt.
Total Project Costs			\$95,222	

08-13-99 11:28 From-

T-073 P. 04/12 F-983

As a result of the E-rate program initiative during this program year, please indicate how many of your schools or libraries will fall into the following levels of technology implementation. If you are responding on behalf of a consortium, a school district or a library system that has schools or libraries at different levels, please list the number of sites that are at each level.

Level of Technology Application	Please list the number of schools and libraries that WILL BE at each level AFTER THE REQUESTED SERVICES are installed.
<b>Level I</b> Phone Service, and Single Point Internet Access	
<b>Level II</b> Phone Service, and multiple computers connected directly to the Internet in a networked lab or single location in a library. Please also estimate the number of computers to be networked	
<b>Level III</b> Phone Service, and direct Internet connection on building LAN with some classrooms networked or distributed centers in a library. Please estimate the number of rooms, centers, and computers.	Laurel Hall school 25 rooms 20 computers
<b>Level IV</b> Phone Service, and direct Internet connection on building LAN with access from all classrooms or library centers. Please indicate number of rooms, public access stations, and computers.	

On an additional page, please elaborate on your strategy for implementing the E-rate this year, especially if not all of your facilities are at the same level.

For example:

If a single school in your district is fully networked and all of its computers have access to the Internet, that school is at Level IV. Your five remaining schools are currently at Level II, but by using this year's E-rate funds, you will bring two of those schools to Level III. The remaining three schools continue to operate at Level II. You should list one school as Level IV, two at Level III, and three at Level II.

Or, you may have your main library facility networked with patron workstations around the library that have full access to the Internet. The remaining system libraries currently only have dial up access to the Internet. However, after this year's E-rate implementation those library outlets will have some networked computers that will have access to the Internet over an ISDN line. The main library should be listed as level IV, and the remaining library outlets should be listed as Level

08-13-08 11:29 From-

T-073 P.08/12 F-883

Laurel Hall School

## 1999 Funding Year: FCC Form 471 Item 22 Review Worksheet

	1999 USF (E-rate) Program Year 7/1/99 - 6/30/2000	Documentation References
<b>SECTION I: CONNECTIVITY</b>		
<b>A. Please indicate the total requested amount of money that the USF (E-rate) would pay for your:</b>	Please enter grand totals from all of the Forms 471 that you filed.	
a) Telecommunications	\$ 64,000.00	
b) Internet Access	\$ 21,546.00	
c) Internal Connections	\$ 166,890.60	
Subtotal Section A	\$ 252,436.60	
<b>B. Please indicate the total amount of money that you will pay for discounted charges on eligible services (your cost after the discount has been applied):</b>	The amount you will pay for services after the discount is applied. Please enter grand total from all of the Forms 471 that you filed.	Please attached copies of the relevant pages of your operating or facilities budget:
a) Telecommunications	6,000.00	
b) Internet Access	2,399.00	
c) Internal Connections	18,543.40	
Subtotal Section B	\$ 26,937.40	
Total of Form 471 Service Costs (A+B)	\$ 269,374.00	
<b>C. Please estimate the total amount of money that you will pay/have paid during the USF Program year for the following items that are NOT covered by a USF discount request.</b>	Payments for Telecommunications, Internet Access and Internal Connections that are not covered by a discount request during 1999 USF (E-rate) Program Year: 7/1/99-6/30/2000	
a) Telecommunications	\$ 0	
b) Internet Access	\$ 0	
c) Internal Connections	\$ 0	
Total Subsection C: Undiscounted connectivity	\$ 0	
<b>SECTION I SUBTOTAL (Subsections A+B+C)</b>	\$ 269,374.00	

	During Last Fiscal Year 7/1/99 to 6/30/00	During This Fiscal Year (7/1/00 to 6/30/01)
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08-13-99 11:29 From-

T-073 P.09/12 F-993

Laurel Hall School

**SECTION II: HARDWARE**

- a) Please estimate the total number of computers connected to your network in support of your E-Rate Initiative (i.e. computers integrated into the curriculum to support instruction or computers used to improve library service).

Estimated Number of Computers Connected At Start of Last Fiscal Year 6  
 Estimated Number of Computers Connected At End of This Fiscal Year 20

b) Please estimate your expenditures for all of the hardware you will use to improve education or library service. This includes ineligible computers, printers, fax machines, telephones, CD-ROM drives, etc., and eligible hardware for which you don't seek a discount.	\$ 6,000.00	\$ 12,000.00
c) Please estimate the value of hardware contributions/in-kind donations.	\$ 0	\$ 16,000.00
<b>SECTION II Subtotal (Section II b+c)</b>	<b>\$ 6,000.00</b>	<b>\$ 28,000.00</b>

**SECTION III: PROFESSIONAL DEVELOPMENT**

- a) Please estimate the percent of your instructional or library service staff that have been trained to use technology to improve education or library services:

0-5 hrs \_\_\_\_ % 5-15 hrs \_\_\_\_ % 15-25 hrs \_\_\_\_ % 25-50 hrs 40 % 50+ hrs \_\_\_\_ %

b) Please estimate your expenditures for professional development. This could include: training classes, conference attendance, seminars, courses, etc.	\$ 2,042.00	\$ 6,000.00
c) Please estimate the value of professional development contributions/in-kind donations	\$ 0	\$ 0
<b>SECTION III Subtotal (Section III b+c)</b>	<b>\$ 2,042.00</b>	<b>\$ 6,000.00</b>

**SECTION IV: SOFTWARE**

- a) Please estimate your expenditures for software used to improve education or library service that is not covered by a discount request. This could include: productivity tools, curriculum software, library automation software, etc.

b) Please estimate the value of software contributions/in-kind donations	\$ 0	\$ 0
<b>SECTION IV Subtotal (Section IV a+b)</b>	<b>\$ 500.00</b>	<b>\$ 2,500.00</b>



08-13-99 11:36

From-

Laurel Hall School

T-076 P.22/48 F-884

	During Last Fiscal Year (7/1/98 to 6/30/99)	During This Fiscal Year (7/1/99 to 6/30/00)
<b>SECTION V: RETROFITTING</b>		
a) Please estimate your expenditures for retrofitting, that are not eligible for a discount. This could include: construction, and electrical wiring upgrades, etc., that are necessary to use the requested E-rate services.	\$ 0	\$ 1,500.00
b) Please estimate the value of retrofitting contributions/in-kind donations	\$ 0	\$ 500.00
<b>SECTION V Subtotal (Section V a+b)</b>	\$ 0	\$ 2,000.00
<b>SECTION VI: MAINTENANCE</b>		
a) Please estimate your expenditures for systems maintenance that are not eligible for a discount. This could include: personnel costs, maintenance agreements for computers, printers, etc.	\$ 2,500.00	\$ 10,000.00
b) Please estimate the value of maintenance contributions/in-kind donations	\$ 0	\$ 0
<b>SECTION VI Subtotal (Section VI a+b)</b>	\$ 2,500.00	\$ 10,000.00
<b>GRAND TOTAL OF E- RATE INITIATIVE PLEASE ADD SECTION SUBTOTALS THROUGH VI</b>	\$ 220,416.00 (including Section I)	\$ 317,874.00 (including Section I)

**Resource Plans:** On this worksheet you have been asked to estimate your investment in the resources you need to make effective use of requested E-rate services. Please use this space, or attach an additional page, to provide information about your plans and strategies for securing the necessary resources to make effective use of the requested services. You may use the space below to cross reference sections of your approved technology plan. If you do not yet have an approved technology plan, please describe your strategy for obtaining approval from an SLD certified Technology Plan approver.

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**EXHIBIT II**

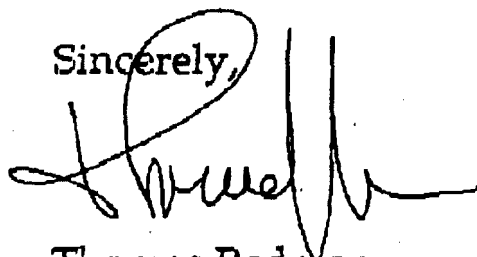
# SAIS

Date: 9-21-99

TO: KAREN NELSON  
LAUREL HALL SCHOOL  
HAGERSTOWN MD

I am pleased to inform you that we have reviewed your technology plan and that it meets all five criteria established by the Schools and Libraries Corporation for participation in the Schools and Libraries Universal Service Program. In order to receive program services, please note that you must indicate on FCC Form 486 that your plan has been approved.

Sincerely,



Thomas Redmon  
Executive Director

**SOUTHERN ASSOCIATION OF INDEPENDENT SCHOOLS**

1846 SOUTHERN LANE DECATUR, GEORGIA 30033-4097 TELEPHONE 404-633-2200 FAX 404-633-2433

## **EXHIBIT III**

Sent by: SAIS 4045332433

09/21/99 12:21PM Job 537

Page 3/3



1023 15<sup>th</sup> Street, N.W.  
Suite 200  
Washington, DC 20005  
Phone: 202-289-2663  
Fax: 202-289-7836

FEB 9 1998

Ira Fishman  
Chief Executive Officer

January 27, 1998

Thomas Redmon  
Executive Director  
Southern Association of Independent Schools  
1866 Southern Lane  
Decatur, GA 30033-4097

Dear Mr. Redmon:

In response to your January 20, 1998 request, the Schools and Libraries Corporation (SLC) is pleased to certify the Southern Association of Independent Schools as an approver of technology plans for participation in the Schools and Libraries Universal Service Program.

Based on the information you provided in your January 20, 1998 letter, it is our understanding that your review and approval process will conform to SLC policies and procedures for technology plan certification. The enclosed statement of our Policies and Procedures outlines the criteria and standards that must be met in an independent peer review of technology plans. Following these procedures, you may review and approve plans for participation in the Schools and Libraries Universal Service Program. Your approval of technology plans should be confirmed with a certification similar to Attachment "A" in the to the SLC Technology Plan Policies and Procedures.

It is important to note, that schools that are subject to a state or local government review process by state or local law may not circumvent that process by submitting plans to you for approval. Also, no school may use your approval process to appeal the review of any other entity.

Educators across the country are excited about the possibility of improving their schools with telecommunications and information technologies. Sound planning and a thoughtful review of their proposed goals and strategies will contribute greatly to the success of their initiatives. You are to be commended for taking the initiative to assist your member schools in this effort.

Thank you.

Thomas G. Carroll  
Director of Technology Planning  
and Evaluation

## Enclosure: SLC Technology Plan and Policies

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